



# LEGISLATIVE UPDATE



*A Membership Service of the National  
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## **HOUSE AND SENATE PASS PRESCRIPTION DRUG BENEFIT MEASURES**

Early this morning both the House and Senate passed legislation that would provide a prescription drug benefit to Medicare beneficiaries. This action represents the biggest expansion to the Medicare program since its' 1965 inception. The Senate, after two weeks of floor debate passed its' measure, S1, by a significant majority, 76-21, while the House passed its' measure, HR1, by the slimmest of margins, 216-215. The House vote was mostly along party lines, with a few Republicans changing their votes at the last minute to secure passage of the bill. Just prior to the final vote, and in a successful attempt to gain support from conservative Republicans who had voiced opposition to the drug bill, the House adopted a tax provision that was estimated to cost \$173 billion over 10 years. The tax provision, which is not included in the Senate bill, would create two types of medical savings accounts to cover unreimbursed health care expenses, including prescription drugs.

Both the House and Senate prescription drug measures, while varying in the benefit scope and delivery, would cost \$400 billion over the next ten years, with the actual benefit not taking affect until 2006. Under the measures, Medicare beneficiaries would have the option of staying in the fee-for-service program and purchasing, where available, a private drug-only insurance plan. Beneficiaries could also chose private health plans, such as preferred provider organizations, that include prescription drug coverage. Both bills include, as an interim measure before the benefit takes effect, a prescription drug discount card that would be available starting in 2004 to all beneficiaries that is estimated to save them 15 to 25 % on their prescription drug costs. Both bills would also, for the first time in over ten years, raise beneficiary Part B, Physician Services, premiums starting in 2006 and then index it to inflation every year after that.

Under the Senate version Medicare beneficiaries who opted for the prescription drug benefit would pay monthly premiums of about \$35 and a deductible of \$275. Medicare would cover 50% of the beneficiary's drug costs between \$276 and \$4,500. A gap in coverage occurs between \$4,501 and \$5,800, when the beneficiary, in addition to continuing to pay the monthly premium, would assume 100% of their drug expenses. Once a beneficiary's drug expenditures have exceeded \$5,800 Medicare would pick up 90% of all additional drug costs that year.

The House bill would require Medicare beneficiaries to pay a \$250 deductible and monthly premiums estimated at \$35. After the deductible is met, beneficiaries would have 80% of their drug costs covered up to \$2,000. The beneficiary would be responsible for 100% of their drug expenditures between \$2,001 and \$4,900, after which Medicare would cover 100% of additional drug costs that year.

### **Protections for Beneficiaries with low-incomes**

Both measures include premium and cost-sharing subsidies for low-income beneficiaries. The more generous provisions in the Senate measure provide subsidies for individuals with incomes up to 160% of the federal poverty level. The House measure provides subsidies for individuals with incomes only up to 135% of the federal poverty level.

The Senate proposal, however, excludes individuals who are “dually eligible” for Medicare and Medicaid from receiving the new Medicare prescription drug benefit. Thus State Medicaid programs, which differ considerably in coverage and benefit, will be required to continue providing drug coverage to these individuals.

### **Cost Containment Provisions**

Neither measure includes any provisions that directly hold down the ever-rising cost of prescription drugs. Before the final vote in the House, language was included in the bill that would permit conditional reimportation of drugs from Canada as well as a provision that would limit the patent extensions on brand-name drugs and speed generic drugs to the market. Similar provisions were passed as amendments to the Senate bill during its’ floor debate.

### **Next Step: Negotiating the differences**

The House and Senate have recessed for a week and will reconvene on the 6<sup>th</sup> at which time they will begin to work out the differences in the bills. Negotiations will most likely be contentious as the measures vary significantly on numerous provisions, including the additional \$174 billion added to the overall cost in the House version.

The issue that will likely be the most difficult to resolve will be the extent to which the measures increase the role of private insurers. Unlike its’ Senate counterpart, the House bill would, beginning in 2010, require the traditional fee-for-service Medicare program to compete with private-sector health insurers to cover Medicare beneficiaries. The House plan also does not include the Senate provision for a government-run “fallback” in regions of the country where fewer than two private plans enter the market.

Another fractious issue that could cause considerable difficulty in resolving during negotiations includes a House provision that for the first time means tests a Medicare benefit. The provision would require higher-income individuals (those with annual earnings of \$60,000 or more) to pay more before the catastrophic benefit begins.